

A Family's Guide to Estate Planning in the SF East Bay



Introduction

Most Sf Bay Area families need an estate plan, but many of us have yet to do one. Most of us don't realize just how critical it is to have an estate plan, while others have it on their to-do list, but just haven't gotten to it yet. If you're ready to learn more about Estate Planning, and get something down on paper – this guide is for you. The purpose of this guide is to answer the following key estate planning questions: What is included in an Estate Plan? Who needs an Estate Plan? How do you find a good Estate Planning Attorney? What does an Estate Plan cost? What's the best way to get started on your Estate Plan?

Let's start with the Basics. **What is an Estate Plan?**

An Estate Plan typically consists of four documents that are critical for every SF East Bay resident concerned with protecting his or her assets when they die - or having control of what happens should they become incapacitated. They are the Revocable Living Trust, the Durable Power of Attorney, The Advance Health Care Directive, and the Will.

Contents

A Family's Guide to Estate Planning in the SF East Bay

Introduction	1
What is an Estate Plan?	1-2
Who needs an Estate Plan?	3
Qualities of a Good Estate Planning Attorney	3-5
Communication & Community	5
About Matthew Talbot	6
How to Get Started	7

Estate Planning Stories

Howard Hughes	2-4
Money & Love	6-8
Modern Family	9



Howard Hughes & the Risks of No Estate Plan

Howard Hughes died in 1976.

Like his life, the story of Howard Hughes' last will (or lack thereof) was material for the movies (think Leo DiCaprio in "The Aviator").

At the time of his death, billionaire businessman and aviator Howard Hughes died with an estimated net worth of \$2.5 billion. A few days after his death, a handwritten Will mysteriously surfaced at a Mormon church in Salt Lake City.

The "Mormon Will," as it was later called, had reportedly been delivered there by a confused gas station owner, who just happened to be named in the will as the beneficiary of \$156 million.

The Nevada court eventually concluded that the Mormon Will was a fraud, just as they ruled multiple other wills that would surface over the next few years were as well.

What is an Estate and who has one?

Before I address each component of a typical Estate Plan, let's define the meaning of "estate" as it pertains to California Probate (Estate) law.

Your **Estate is essentially everything you own**. It includes any personal property, any real property (homes, land, etc.), and any financial assets you possess. By that definition, the majority of SF East Bay residents have an estate.

An estate plan in California also includes documents that specify *how, and by whom* your healthcare and finances will be managed should you become unable to manage them yourself. With increasing rates of Alzheimer's and dementia, these documents have only become more relevant.

An estate plan also specifies **who will take care of your children** should you die – avoiding the need for a costly (and potentially litigated) guardianship proceeding. These three aspects of your life are addressed by the Durable Power of Attorney, the Advance Healthcare Directive, and your Living Trust.

What is Included in an Estate Plan?

Four main documents comprise the typical Estate Plan in California. The first is the **Revocable Trust**, the second is the **Durable Power of Attorney**, the third is the **Advance Healthcare Directive**, and lastly the **Pour-Over Will**.

Together, the **Trust** and **Will** detail *how and to whom* you would like your estate distributed when you die, and who you would like to care for your children (and their finances) should something happen to you.

The **Power of Attorney** and the **Healthcare Directive** specify *who and how* you would like your assets and healthcare managed if you become incapacitated.

A Durable Power of Attorney allows someone else to manage your finances should you become incapacitated

Howard Hughes cont.

After an extensive search for the real Will, officials were forced to conclude that Hughes neglected to do a Will at all. With so much money at stake, a court battle ensued between the estate's temporary administrator (Howard's cousin) & the Howard Hughes' Medical Institute.

The legal battle also included the states of Nevada, California, and Texas, who each laid claim to the distribution of the estate.

(dementia, serious car accident, etc). The **Advance Healthcare Directive** appoints an agent to make health and medical decisions on your behalf if you become incapacitated. Both help to avoid the potential of a costly **Conservatorship**. A *Conservatorship* is the court managed process of appointing agents on your behalf.

Planning for Those you Love

Creating an Estate Plan is really about **protecting those you love**. It is also about **preserving your life's work**. Leaving your Estate to chance places a huge burden on your loved ones, and can often create serious legal problems as well. Many perceive estate planning as a daunting and complicated task. In practice, however, creating your estate plan can be quite simple. A good Estate Planning attorney can break it down into manageable pieces that will allow you to accomplish your goals without unnecessary burden or stress.

“Mr. Talbot exceeded expectations both with his expertise in trust law and with his attentiveness to providing the best service for his clients.” –Aram Y., February, 2015

The fight for a piece of Hughes' estate went on for years. It included multiple wives, a woman who claimed to be his wife, and several people who claimed to be Hughes' long lost children.

In the end, a large part of the money went to the Howard Hughes Medical Institution, with the rest being split among relatives and attorneys in the form of both money and shares in the Howard Hughes Corporation.

The entirety of the Estate was no settled until nearly 30 years after Hughes' death, in 2010.

Qualities of a Good Estate Planning Attorney

An experienced estate planning attorney can guide you through the process of creating a plan tailored to your needs, ensure you understand every part of the estate planning process, and be there to answer your questions along the way. The right professional will also provide easy to understand explanations of probate law in California, federal estate tax law, and how the laws apply to you.

But how do you find the best Trust and Estate lawyer? What skills and qualifications should your Estate Planning attorney possess? Is it okay to interview multiple attorneys?

Once you've decided an Estate Plan is right for you, there are a few ways to go about finding an attorney. A referral from a friend, family member, or attorney is one way to begin your search. Another is online, by researching attorneys with the best reputations and reviews. I recommend several other key qualities to look for in your Estate Planning Professional:



Education & Resume

You'll want someone who attended top universities, and graduated at the top of his or her class. This shows dedication to hard work and accomplishing goals. You'll also want an attorney who has been trained in the field of Trusts and Estates by an **established mentor or notable law firm**.

Expertise & Experience

Avoid attorneys without significant experience in trust and estate law. I recommend seeking out an attorney with *at least a decade* of experience exclusively in **Trust, Probate, Estate, and Elder law**. If you or your spouse have children from another marriage, or your assets fall outside the estate tax exclusion limit, you'll need an expert in those areas too.

A Practice in Litigation

An attorney who only does estate planning never sees the whole picture. Alternatively, a lawyer who works with contested trust and estate matters and is frequently in court is keenly aware of the risks associated with certain estate planning choices – as well as the risks of improper estate planning. You need an attorney who is sophisticated enough in his or her knowledge of the law to design an estate plan that keeps your assets – and your loved ones - out of court.

The Risks of No Estate Plan continued

What does Howard Hughes' story mean for you?

Let's be honest, very few of us will die with an estate worth \$2.5 billion. Nevertheless, you may not wish for what you do have to be eaten up by attorneys' fees, or distributed to distant relatives. Attorneys' fees are of particular concern for small estates, as a larger percentage of the estate can be depleted if a legal fight occurs.

In summary, a clear, well constructed Estate Plan can ensure your assets are passed to who you intend while minimizing stress for family members and unnecessary legal fees.

"We are impressed with Matthew Talbot. He is straightforward, very knowledgeable, and a great listener. One of the best things is his sense of humor – he makes us smile."

-Ann M., August 2016



“Your Estate Planning attorney should provide clear, compassionate legal guidance”

Communication

First and foremost, your attorney should be a **good listener**. He or she needs to clearly understand your wishes and circumstances, and provide clear and compassionate legal guidance. You’ll also want an attorney who responds quickly and is available to answer your questions throughout the Estate Planning Process.

Credibility & Community

An attorney who is active in his or her legal community and a **mentor to other attorneys** is likely someone you can place your trust in.

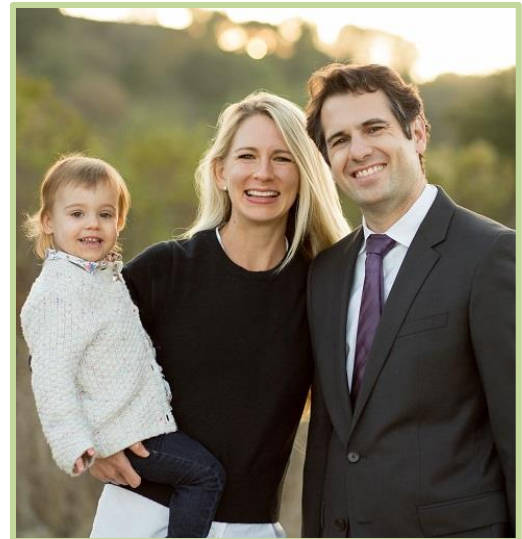
“Mr. Talbot has been handling our family trust for more than two years, and in all the time we’ve worked with him has been responsive, pro-active, attentive to needs that arise that we may not be aware of, and generally a pleasure to work with. I’d recommend him highly.”

-- Rachel D., Feb., 2014

Recognition by independent ratings organizations like **Super Lawyers** and **Avvo** is also a sign of an attorney who has earned the trust of clients and colleagues alike.

Matthew B. Talbot, Top Trust & Estate Attorney, SF Bay Area

On top of my legal education, I have also served as a mentor to other attorneys in the Estate Planning and Elder Law fields, as well as taught classes on Probate law and Ethics for Attorneys on behalf of the Contra Costa Bar Association. I am frequently shadowed in court by young attorneys, and am often asked to answer questions and review the work of colleagues.





I have practiced estate, trust, and elder law exclusively for over a decade. I specialize in Estate Planning for blended families and older individuals who may also face Elder Law issues.

Other attorneys may do estate planning only occasionally or have never seen the inside of a courtroom. As someone who has experience with probate litigation and elder law issues, I am best equipped to design estate plans that provide insurance for your financial and physical health as you age, and safeguard your estate when you are gone.

I am also deeply involved in my community. I am on the Executive Board for the Robert McGrath Inns of Court, the Barristers Association, and Contra Costa Senior Legal

Money & Love: The Case for Estate Planning

Death is an emotionally charged situation. Wouldn't you want to spare your loved ones the additional anxiety of dealing with questions that are left unresolved by a lack of preparedness?

Most of us would answer, "Yes!" But this is more difficult than it might seem, and also more complex than simply executing a Will or Trust.

We often like to think that money and love are not related, and that our children will understand and accept our final wishes as we have put forth in our will or trust. We may also believe that the Will or Trust we have created will solve all questions and concerns that arise when we die.

Money is a touchy subject and conversations about inheritance are often avoided. [Cont. pg 7.](#)

"Matthew was extremely competent and also very caring in what could be an emotional endeavor. He met with my financial planner to help get all documents and accounts in order. He is very professional and at the same time I felt very comfortable working with him."

-- Suzanne M., Oct., 2015

Services, a foundation that provides free legal services to seniors in need.

I have been named to the **Northern California Super Lawyers** list, an independent ratings organization that selects only the top 2% of attorneys in each area.

I have a rating of "**Superb**" on Avvo, an independent attorney rating website, and have earned multiple five star reviews from clients on a variety of online ratings websites.



Money & Love continued

As parents, we put off planning our estates and we put off talking to our children about our plans. As children, we put off thinking about what would happen if a parent died or became incapacitated.

This lack of communication can lead to misunderstanding and questions about favoritism and fairness among those who are nearest and dearest to us.

An experienced Estate Planning attorney can facilitate these discussions and help you make the preparations that will avoid complications between family members. With proper estate planning in place - and a little communication - your family can avoid the legal and emotional pitfalls that follow in the wake of lack of preparation for the end of life.

A place for everything, everything in its place

Once you have made a final copy of your estate plan - including your trust, will, advance healthcare directive, and power of attorney - and any accompanying documents, keep these papers in a special binder whose location is known by those closest to you.

If you do not want to disclose financial information to your children before it is necessary, consider keeping your binder in a safe deposit box.

How to get Started on Your Estate Plan

Getting started is usually the hardest part of any estate plan. The Law Offices of Matthew B. Talbot offer a free 30-minute consultation for prospective Estate Planning clients. During your meeting we will answer any questions you have, provide an analysis of your Estate, and provide you with recommendations specific to your situation.

Step 1: Hire the Best Counsel

The first step in beginning your Estate Plan is to choose a qualified Estate Planning Attorney with whom you feel comfortable. Once you've found him or her, you can begin the process of drawing up your Estate Plan. If you're not ready to commit just yet, feel free to schedule a phone consultation to address any preliminary questions you may have.

At the Law Offices of Matthew B. Talbot, we will be more than happy to answer any questions you have.

Step 2: Fill out your Estate Planning Questionnaire

I have specifically designed an estate planning questionnaire to get you started with your estate plan. The questionnaire gathers basic information about your financial situation, assets, and wishes.

Step 3: Answer Questions and Discuss Your Goals

You likely have an idea of how you would like your Estate distributed, and who you trust to help you do so. Together, we will ensure that all your questions are answered and work together to accomplish your goals. We will also discuss what (or who) you would like to avoid, and the best legal ways to do so.

Frequently encountered Estate Planning Issues

Issues that will arise throughout the course of the planning process include questions like these:

- If you have any minor children, do you have someone in mind as a guardian?
- Do you have any stepchildren, or previous marriages?
- Do you have any previously executed Estate

Money & Love cont.

Also consider keeping a list of your financial and legal contacts in case children need them.

Many of these things sound simple, but are harder to do in practice.

The bottom lines is this:

If you have assets, and you have loved ones who will likely outlive you, then money and love are already intertwined.

Plan properly, communicate your plan to loved ones, and let your last message **be from you.**



Modern Family: Estate Planning for Blended Families

Jay Pritchett's family on ABC's popular sitcom "Modern Family" is a reflection of many families in the U.S. today. Jay (Ed O'Neill) and Gloria (Sophia Vergara) are parents of a blended family - in other words, they are in a second (or third) marriage and have children from multiple marriages.

Planning documents (will, trust, DPOA, Healthcare Directive)?

- Do you wish to leave money or assets to charitable organizations?
- How is your home currently titled? Are there any homes in your name that your children reside in?
- Do you wish to leave specific gifts?
- If you are remarried, do you want your spouse to have your assets only while he/she is alive?
- If you can no longer manage your own financial or medical affairs, who do you want to act on your behalf?

While these are just a few of the issues we'll delve into, I will help you to design a plan that not only protects your assets, but allows for maximum flexibility during your lifetime.

I am here to help you when the time is right for you. If you decide to move forward, after our consultation I'll have you begin with our initial questionnaire. Any questions you have while filling it out, or after you've given it back to me, I'll be happy to answer.

If you want to call me, or set additional appointments in person to discuss your plan, you can do so. I charge a flat fee to ensure that my clients feel free to call, email, or meet with me to address concerns without worry of being billed.

Cost

Many Estate Planning attorneys charge hourly for estate plans. While they may tell you that a simple estate plan is likely to cost between \$2,000 - \$3,000 dollars, in many cases it could cost significantly more.

I recently had a client come in to amend her estate plan. The final bill of putting together her relatively simple estate plan with her prior attorney was nearly \$10,000. Her attorney billed her for every phone call, email, and meeting they had to address her questions.



I charge flat fees to ensure my clients feel free to ask questions and discuss their plan as much as is necessary.

As an attorney who also handles litigation, I am a firm and passionate believer in the importance of not only having an estate plan, but also understanding the full ramifications of your estate plan. My fees range from \$500 to \$3,200 depending upon whether you need a simple Will, a Durable Power of Attorney, an Advance Healthcare Directive, a Trust Amendment, or a complete Estate Plan.

Pricing is also based on the complexity of your situation, and if you're doing a single estate plan, or joint estate plan. Regardless, it's always a flat rate, you'll never be billed extra if you have more questions, or need additional meetings.

Age

There are quite a few very experienced and qualified Estate Planning attorneys in the SF Bay area. I have gotten to know many of them, and benefited from their experience. However, many of these same attorneys are facing retirement in the next several years. If you begin your estate plan with them, chances are they won't be there to answer questions or make changes for you down the road.

Modern Family, cont.

How does Estate Planning work for a blended family, or a couple who is on their second, third, or fourth marriage?

As a Trust and Estate lawyer in the SF East Bay, I frequently handle estate matters for blended families. In most cases, this typically means you have parents of children who are on their second or third marriage who want to put an estate plan together for themselves.

Usually the couples want their assets to take care of *each other* during their lifetimes, and afterwards for their assets to be distributed to their children on *their sides* of the family. In other words, if a couple marries later in life, each spouse wishes for his/her assets to be passed to his/her children once the other spouse dies, and *not* go to step-children.

As an Estate Planning attorney, my clients are sometimes concerned that after the first spouse dies, the second spouse will be able to make changes to their joint will or trust, perhaps under the influence of a child. These changes might distribute the other spouse's assets - the deceased's spouse's assets - to someone not in the intent of that deceased spouse.

This is where litigation can arise, so it's extremely important to plan carefully.

Modern Family, cont.

To avoid disputes, these types of matters can typically be resolved through the usage of **sub trusts**, which become irrevocable upon the death of the first spouse.

These sub trusts allow for assets to be placed into different "buckets." This means that when the first spouse dies, his or her assets are placed in an **irrevocable** sub trust. An irrevocable trust, by its nature, *cannot be changed* or revoked. During the lifetime of the surviving spouse, these assets can be used for their care if need be, honoring the intent of the deceased spouse. After the surviving spouse passes, those assets are then distributed to the beneficiaries of the deceased spouse.

In some cases, this can also lead to litigation because the children of the deceased spouse may choose to fight over how these funds are used. If there is disharmony, the children of the deceased spouse may not want the majority of these funds used for their stepparent's care, because it means there will be less money for them.

It's always in the couple's best interest to execute an Estate Plan with a reputable Estate Planning attorney. However, even the best estate plans can result in litigation. That is why I recommend the next important step when it comes to Estate Planning for blended families.

You need an Estate Planning Attorney who is firmly rooted in your community and who will be there to offer guidance as you age. I not only grew up in the East Bay and attended school here, my entire family lives here. My wife and I will raise our children here - we even plan to send them to the same high school I attended. Bottom line- I will be there for you when you have questions regarding your estate plan, need to make changes, or need elder law advice for yourself or family members.

I am firmly committed to our community, my practice, and my clients.

From the first meeting, Matthew struck me as an unusually honest, caring individual who was capable and willing to help me. Throughout our time together, I felt he was a strong advocate in my corner, keeping me informed at every step. I appreciated his candor and rigorous honesty, and would recommend Matthew Talbot to anyone in my life.

-Sarah D.

To do or Not to do?

DIY Planning vs. an Attorney

With all the options for Do It Yourself Estate Planning out there, it can be difficult to weigh the costs when it comes to hiring an attorney. For most people, it comes down to expertise and experience. You would never attempt to operate on yourself if you weren't a surgeon – the chance of a poor outcome would be too high. It's the same with Estate Planning – the difference is that you most likely won't be around to see the results.

Your Estate Planner should be an expert in the field, have significant experience with complex estate planning, and a high degree of familiarity with the outcomes behind each and every Estate Planning choice you make.

He or she should also be someone with whom you feel comfortable.



Modern Family cont.

Communication

Great communication with family members, including children, about what parents want is invaluable.

Pre-estate plan mediations or family meetings are a great way to accomplish this. And by this, I mean a situation where the whole family sits down and tries to work out an agreement.

This often seems strange to parents - the settlors who are putting the trust and estate plan together - because they essentially feel like they have to get the okay from their children on how they distribute their own estate.

However, if these meetings occur and everybody gets on the page, or at least as much on the same page as possible, it can avoid a nasty and expensive litigation on the back end.

Avoiding litigation is really the most important focus that any estate planning attorney can have. So, I do recommend to my clients that they not only have a well thought out estate plan, but they also have these pre-drafting, pre-signature, or even pre-death meetings to try to hammer out problems and help their children understand what's going to happen, so they don't end up with fighting, attorney fees, and destroyed families.

When it comes to choosing your Estate Planning attorney, you also want someone who is going to be honest and direct with you. You need someone who can fully understand what it is you want, and then give you straightforward legal advice on how to accomplish your goals. You also need someone who isn't afraid to point out potential problems with your plan, and can offer suggestions of what will work better. After all, it's your entire life's work we're talking about - and all the people you care about. You want it done right!

A solid Estate Plan protects you, your family, and your assets. The first step is simply setting up a meeting. I am happy to offer an initial consultation free of charge.

Call us at: **925-322-1795** to set up your appointment, or feel free to send me an email on our website.

About Matthew B. Talbot, Attorney

Matthew has focused exclusively on the Trust, Estate, and Elder Law field for over a decade. He received his law degree from the University of San Francisco School of Law in 2006 and was admitted to the California Bar the same year. Shortly thereafter, Matthew began his career in Trust and Estate Law at an established firm in the SF East Bay.

Prior to attending law school, Matthew completed his Bachelor's degree at the University of California, Berkeley where he majored in Political Science and Business and was an active member of the California Marching Band.

Matthew is a member of the Trusts and Estates section of the California State Bar. Additionally, he is a member of the Estate Planning and Probate section, Elder Law section, ADR Section, Solo and Small Firm Section, and Litigation section of the Contra Costa County Bar Association.

Mr. Talbot is also an active member of the **American Inns of Court** and the **National Association of Elder Law Attorneys**.

Additionally, Mr. Talbot is on the Executive Board for **Contra Costa Senior Legal Services**, and *Robert G.*

American Inns of Court. Matthew is also a columnist and contributing editor for [Contra Costa Lawyer Magazine](#).

Complex Estate Planning

Mr. Talbot specializes in assisting clients with complex estate planning, including Special Needs Trusts, Trusts for Minors, Pet Trusts, and Trusts for blended families. Mr. Talbot also greatly enjoys working with young families who may be new to the ideas presented in Estate Planning.

Honors & Awards

Mr. Talbot has earned a 10/10 **"Superb" Rating** on Avvo, an attorney rating service that combines client and colleague reviews and ratings, along with attorney experience to rate attorneys. Matthew was named to the 2016 Northern California **Superlawyers** Rising Stars list. This is an exclusive list which recognizes only the top 2.5 percent of lawyers in the state. Super Lawyers is a rating service of outstanding lawyers who have attained a high degree of peer recognition and professional achievement.

A Family Firm: Staff



Elizabeth Talbot
*Firm Manager &
Paralegal*

Elizabeth specializes in assisting clients with their Estate Plans, as well as performing numerous duties around the office. She is currently apprenticing to become an attorney.



Lena A. Van Leeuwen
Attorney

Ms. Van Leeuwen joined our firm with over 15 years of experience as an attorney. Lena specializes in complex trust and estate litigation.

Mehera Nori

Attorney

Ms. Nori's sweet, smart, and upbeat disposition puts clients at ease throughout the Estate Planning Process. Mehera specializes in Probate, Estate Planning, and Conservatorships.

Legal Terminology in Estate Planning & Elder Law

Estate – The entirety of one's assets, including property, cash, and tangible items

Trust – A legal entity that can hold property and other assets

Power of Attorney – A legal document that grants another person the power to act on one's behalf in financial matters.

Attorney in Fact – also called an Agent, this is the person appointed by a Power of Attorney to act on one's behalf.

Healthcare Directive – Also known as a power of attorney for healthcare, this legal document appoints an agent to make healthcare decisions on one's behalf.

Attorney Education & Mentorships

Mr. Talbot is also deeply involved in his legal community as a speaker, panelist, philanthropist, and mentor.

Matthew taught the Contra Costa Bar Association's "**Probate 101**" Class for Attorneys, is a speaker on behalf of the American Inns of Court, a Presenter at the Bar Association's Event on Elder Law, and a Panelist for the Bar Association's **course on Ethics for Attorneys**.

Matthew has mentored other attorneys in the Elder Law and Probate fields, and is frequently shadowed by younger attorneys in court.

In addition, Matthew's stellar reputation have earned him the position as counselor for other prominent attorneys in the San Francisco East Bay.

Getting Started

The first step is scheduling your appointment! Matthew's wife and firm manager, Elizabeth, can help you book your free consultation. During your initial consultation, Matthew will walk you through the process of creating your estate plan, and answer any questions you have.

There's no better time than the present. Call 925-322-1795 to get started.



Pour Over Will –

A will that accompanies a Trust that takes care of assets that have not been placed in the trust. It typically directs the executors to “pour over” any missing assets to the trust and distribute them according to the terms of the trust.

Will (no Trust) – Directs how the assets of a person will be distributed upon their death. Assets are still subject to probate.

Probate (1) – The name for all laws in California related to Trusts, Estates, and the management of a person’s care or finances.

Probate (2) – The “probate” of an estate refers to the legal process of administering and distributing a person’s estate when there is no Trust.

Conservatorship – The court administered process of appointing an agent to act on someone’s behalf.



Law Offices of Matthew B. Talbot

Appts: 925-322-1795

Direct: 925-322-1763

Email: matthew@matthewbtalbot.com

Specializing in Estate Planning, Trusts, and Probate for clients in Walnut Creek, Concord, Pleasant Hill, Martinez, Oakland, Berkeley, Lafayette, Moraga, Orinda, Alamo, Danville, San Ramon, Brentwood, Benicia, Contra Costa County, Alameda County, Solano County, and the San Francisco East Bay.